

IN THE HIGH COURT OF UTTARANCHAL AT
NAINITAL

WRIT PETITION NO. 733 (MS) OF 2006

Km. Reshu Malik (minor),
D/o Shri Maharaj Singh,
Through her natural guardian Maharaj Singh,
S/o Shri Jaipal Singh,
R/o Village Brahampur, Pargana Manglore,
Tehsil-Roorkee,
District-Udham Singh Nagar. Petitioner.

Versus

State of Uttaranchal,
through Uttaranchal Shiksha Evam Pariksha Parishad,
Ram Nagar, District-Nainital,
through its Secretary. Respondent.

Dated: 16.06.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Manish Arora, Advocate for the petitioner and
Standing Counsel for the respondents.

By the present writ petition, the petitioner has prayed for
a writ of mandamus commanding the respondents to produce
the copies/record of the all three papers of the Science of the
petitioner bearing the Roll No. 000013679 of regular High
School examination 2006 conducted by the respondent and
direct to re-evaluate the answer-sheet of the petitioner of
Physics 1st paper.

Briefly stated, the petitioner appeared in the 10th class
examination bearing the Roll No. 0013679 as a regular

candidate from Raja Mahendra Pratap Prem Vidyalaya Inter College Gurukul Narsan Haridwar in the year, 2006.

According to the case of the petitioner, she appeared in all the papers and answered all the papers with his full satisfaction.

However, the result was declared in June, 2006 and the petitioner could not succeed in the said examination and on getting the mark-sheet, it was revealed that in papers of Science, she has gotten 8, 3 and 8 marks respectively totaling 19 out of 100. In other papers, she has got satisfactory marks. So far as the evaluation is concerned, there is no provision for evaluation for evaluating the marks and as such no relief can be granted to the petitioner.

So far as the scrutiny is concerned, the petitioner has submitted that let the scrutiny be made of the answer books of all the papers of Science.

Sri V.K. Bisht, Sr. Advocate, has submitted that let the petitioner apply for scrutiny and the same shall be done by the Secretary Uttaranchal Shiksha Evam Pariksha/respondent no. 2 as according to the case of the petitioner, she had obtained very good marks in Class-9.

In ***Vaibhav Pandey v. Board of High School and Intermediate Education (1998)2 U.P.L.B.E.C. 1501***, it has been held as under:-

“2.The past record of the petitioner indicates that he is an exceptionally brilliant student. In High School examination, the petitioner indicates that he is an exceptionally brilliant student. In High School examination, the petitioner has been awarded 19 marks out of 32 in Hindi 3rd papers. The petitioner has been awarded much higher marks in other subjects. The

apprehension of the petitioner is that his answer book of Hindia IIIrd paper has not been correctly examined.

3. This writ petition is finally disposed of with the direction that respondent No.2 Apar Sachiv, Madhyamik Shiksha Parishad shall himself check the answer book of the petitioner in Hindi IIIrd paper of High School Examination, 1998 within a period of one month from the date a certified copy of this order is produced before him. On the date on which the answer book of the petitioner is being looked or examined by respondent No.2, the petitioner's guardian may also remain present. If any discrepancy is found in the answer book, it shall be corrected. The roll number which had been allotted to the petitioner is 1064476."

The aforesaid judgment has also been followed in Trishma Singh vs. U.P. Intermediate Education Board Allahabad, 2001 U.P. Local Bodies Cases 2071. Paragraph-7 of the judgment is important which is quoted below:-

"Learned counsel, for the petitioner has placed reliance on the case of Vaibhav Pandey v. Board of High School & Intermediate Education (1988) 2 UPLBEC 1501, in which this Court held as under:

This writ petition is finally disposed of with the direction that respondent No.2 Apar Sachiv, Madhyamik Shiksha Parishad shall himself check the answer book of the petitioner in Hindi IIIrd paper of High School Examination, 1998 within a period of one month from the date a certified copy of this order is produced before him. On the date on which the answer book of the petitioner is being looked or examined by respondent No.2, the petitioner's guardian may also

remain present. If any discrepancy is found in the answer book, it shall be corrected. The roll number which had been allotted to the petitioner is 1064476."

It has further been held by the Allahabad High Court in the case ***Mobeen Ahmad Ansari vs. State of U.P. and others (1999) 1 UPLBEC 603*** as under:

"It is a matter of great concern that in the recent years there is consideration influx of such writ petitions in this Court has increased. Earlier the Board of High School and Intermediate Education had inspired so much confidence that seldom writ-petition were filed. Filing of writ petition on such a large scale before this Court indicate that there is considerable dissatisfaction among the students and their parent which requires introspection by the Board authorities as well. Although this Court seldom interfere in the revaluation of the marks, but with a view to have greater accountability and transparency there is a need for framing some certain rules to rectify the error, mistakes or defection calculation of the marks."

Thus, the respondent no. 2 is directed to get the scrutiny of the answer books of all the papers of Science in accordance with the aforesaid judgments of the Allahabad High Court, where it has been held that there should be transparency of the marks and the petitioner may not be deprived from his legitimate claim.

Respondent no. 2 is directed to get the scrutiny done after the petitioner applies for the same, if possible by 15th of August, 2006.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

09.06.2006

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